

SN: 10/772,596  
Art Unit: 3764  
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#### Remarks

Applicant respectfully requests reconsideration of the application and allowance of the pending claims. Claims 6 and 8-10 remain in the case. Claim 7 has been canceled in view of the new matter rejection set forth in the final rejection.

Applicant has made a good faith effort to follow the rules related to claim language and format to provide claims that comply with 35 U.S.C. 112, second paragraph and other formal requirements.

The final rejection rejects claims 6, 8 and 10 as being obvious in view of Polk and Winkler et al. Claims 7 and 9 are rejected over a combination of Polk, Winkler and Essen.

Claim 9 has been amended to recite additional features of the end cap. No other amendments have been made.

Applicant respectfully submits that the claims are patentably distinct from the cited references. The primary reference (Folk) discloses an exercise club that resembles a bowling pin having a stepped cylindrical cavity extending from an opening at the bottom end a distance of about 40% of the length of the club. Cylindrical weights having lengths corresponding to the diameters and lengths of the cylindrical steps may be inserted in the cavity to vary the weight of the club.

Folk discloses an exercise club in which sockets are drilled into solid wood or other suitable material.

Winkler et al. is directed to a jump rope device. The portion of Winkler et al. that is cited in the Official Action is part of the handle 14 for the jump rope. There is no disclosure or suggestion in Winkler et al. for forming a molded cavity with ribs as set forth in claim 1 for holding one or more exercise weights in an exercise club. Winkler et al. discloses guide ways 28 that retain a ball bearing support member 26 in the handle. Referring to FIGS. 2A-2C of Winkler et al. there is shown a plurality or pairs of parallel ribs (no reference character) that form a plurality of guide ways (or slots) 28 on the interior surface of the handgrip 14. The support member 26 has vanes 26a that extend within these guideways. Elongate weights having a pie shaped cross section may be

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inserted between adjacent vanes to achieve a desired weight for the handle 14. There is no suggestion in the art that the guideways of Winkler et al., being designed to receive corresponding vanes would be suitable for forming a receptacle for the cylindrical weights of the present invention. The weights used in the present invention have no vanes so that guideways for vanes have no relevance to the present invention.

The present invention retains weights centered within the cavity to achieve an even weight distribution. Adjusting the cumulative weight in the device of Winkler et al. by omitting one or two of the weights 30 would result in an uneven weight distribution.

The complicated structure of Winkler et al. including ball bearings, springs, a vaned support device, guideways, teeth and bayonet type closing mechanism suggests nothing related to the simple structure of the present invention.

The invention as recited in claim 6 has a handle and a main body extending from the handle. The main body is formed as a thin shell that encloses a cavity. A plurality of ribs (or vanes) extends from portions of the sidewall into the cavity. The ribs provide strength to the shell and define a receptacle for elongate weights that may be inserted into the cavity. The ribs of Winkler et al. are not seen to extend into a cavity to provide a receptacle for a weight as claimed. Therefore, claim 6 should not be seen as being obvious in view of the prior art.

The remaining claims depend directly or indirectly from claim 6 so that remarks regarding claim 6 apply also to claims 7-9. Applicant also submits the following additional remarks regarding the dependent claims.

Claim 7 recites a second plurality of ribs extending into the cavity from the cavity bottom. This feature is neither disclosed nor suggested by the references.

Claim 8 recites that the main body includes a generally frustoconical section connected to the handle and a generally cylindrical section extending from the larger end of the frustoconical section. These features are also not shown or suggested in the references.

Claim 9 has been amended to recite ribs in the end cap to retain the outer ends of the weights centered on the end cap. Claim 9 now also recites that the end cap is

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removable to allow for adjustment of the amount of weight in the cavity. The ribs in the end cap are shown in FIG. 8 and described in the application as originally filed in claim 2, which forms part of the disclosure. A request for drawing changes is included herewith to add a reference number to FIG. 8 to indicate the ribs in the end cap.

The references fail to disclose or suggest the end cap having a recess and radially extending ribs therein as set forth in claim 9.

Essen discloses a thermometer holder that includes gripper elements 24 and brackets 34 to retain a thermometer in the holder. The bracket 34 is not seen to suggest the ribs in the end cap of the present invention. Furthermore, the thermometer holder disclosed by Essen has no relation to the exercise club of the present invention. There is no suggestion anywhere in the prior art for a person of ordinary skill in the art to look to a thermometer holder as being relevant to the present invention.

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. Therefore, applicants respectfully request a notice of allowance for the pending claims

Respectfully submitted,

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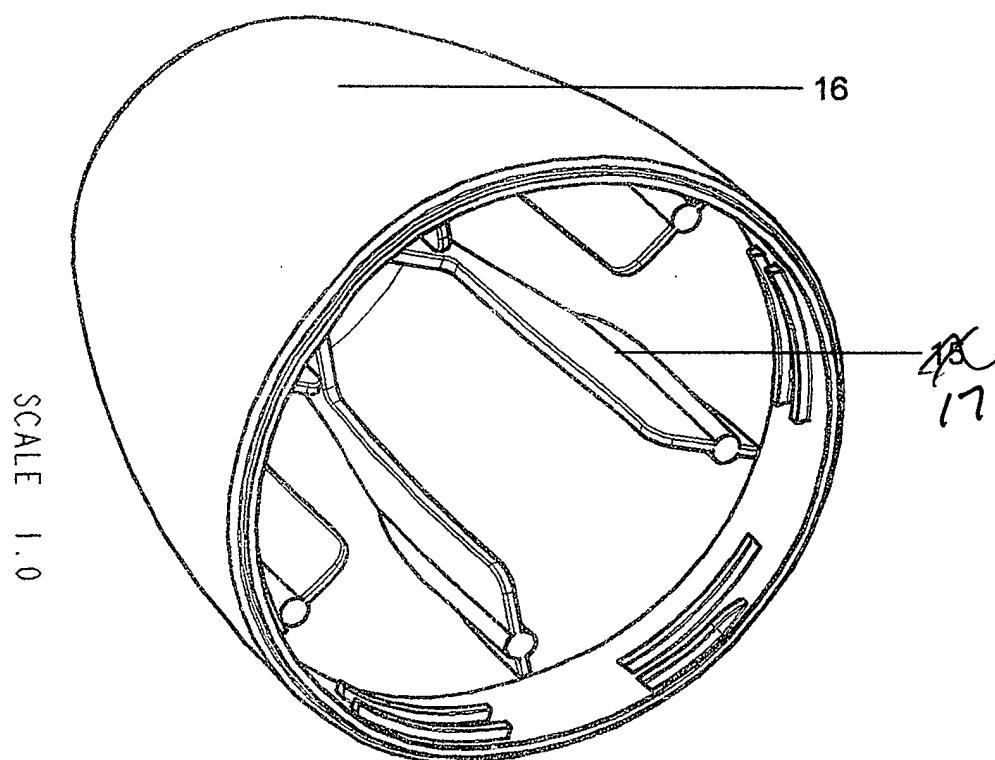


Fig. 7

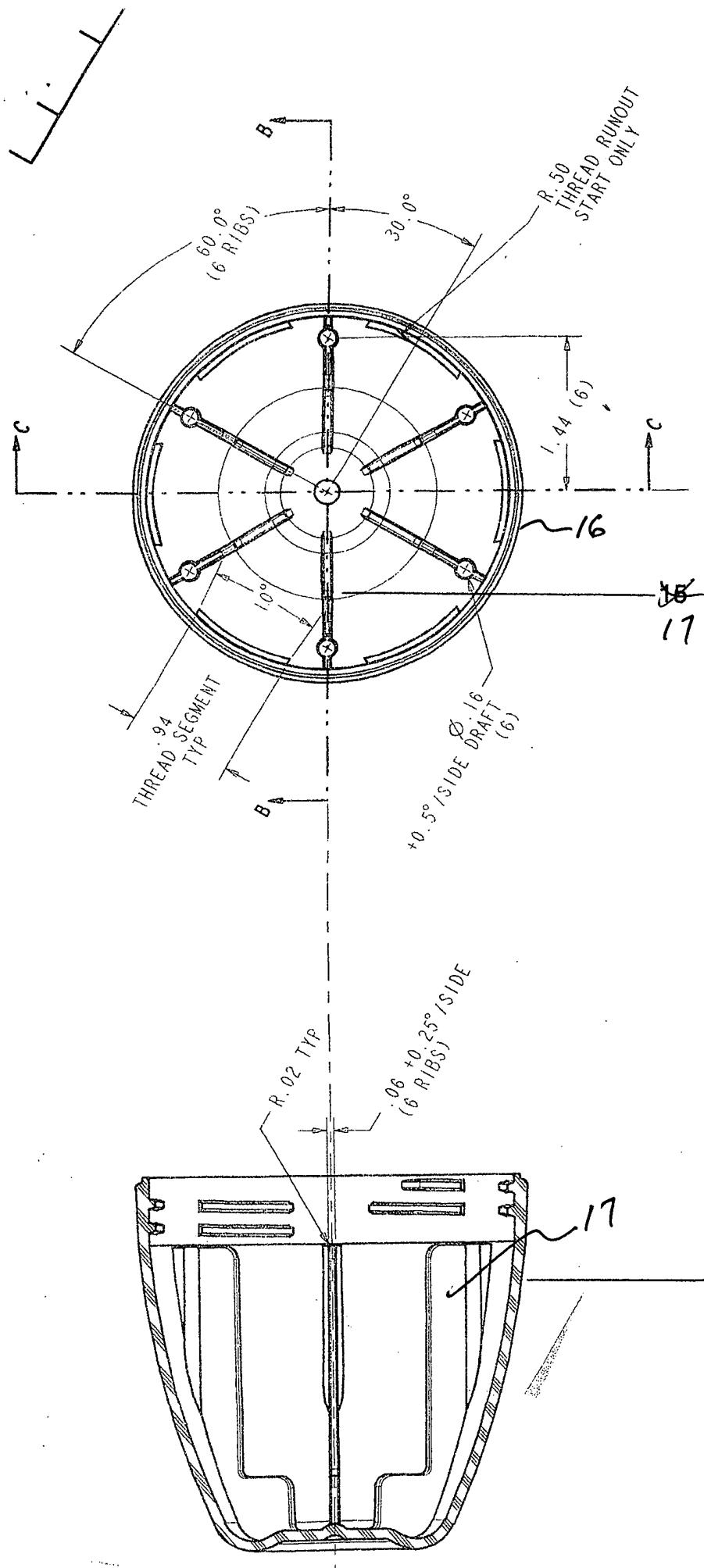


Fig. 8